

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 3

**DOCKET NO.: 2008-0527-PST-E TCEQ ID: RN102226750 CASE NO.: 35699****RESPONDENT NAME: TO NGUYEN AND QUANG HUYNH, AKA QUINN HUYNH, DBA DISCOUNT GROCERY STORE**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 4244 Wilbarger, Fort Worth, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired July 6, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney: Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577 TCEQ Regional Contact: Mr. Sam Barrett, Dallas-Ft. Worth Regional Office, MC R-4, (817) 588-5903 Respondents: Ms. To Nguyen, Owner, Discount Grocery Store, 315 Foxglove Court, Grand Prairie, Texas 75052 Mr. Quang "Quinn" Huynh, Owner, Discount Grocery Store, 315 Foxglove Court, Grand Prairie, Texas 75052 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p> <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review         </p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> February 28, 2008, and May 20, 2008</p> <p><b>Dates of NOEs Relating to this Case:</b> March 22, 2008, and June 30, 2008</p> <p><b>Background Facts:</b> This case is a consolidation of two enforcement actions. The EDRP for docket no. 2008-0527-PST-E was filed on September 23, 2008. The EDRP for docket no. 2008-1249-PST-E was filed on December 19, 2008. An EDFARP consolidating the cases under docket no. 2008-0527-PST-E was filed on March 3, 2009. The Respondents filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was received on July 27, 2009.</p> <p><b>Current Compliance Status:</b></p> <p>The Respondents corrected violation nos. 3, 4, 5, 6, and 7. The Respondents have not yet submitted documentation to certify compliance with the technical requirements. The Respondents' delivery certificate expires in August 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to conduct daily and monthly inspections of the Stage II vapor recovery system for the petroleum storage tanks [30 TEX. ADMIN. CODE §115.244(1) and 115.244(3), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system by completing a training course approved by the executive director, and failed to ensure that current employees are aware of the purposes and correct operating procedures of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems, and failed to maintain the Stage II vapor recovery system in proper operating</li> </ol>	<p><b>Total Assessed:</b> \$15,783</p> <p><b>Total Deferred:</b> \$0</p> <p> <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset         </p> <p><b>Total Paid/Due to General Revenue:</b> \$453/\$15,330</p> <p>The Respondents paid \$453 of the administrative penalty. The remaining amount of \$15,330 shall be payable in 35 monthly payments of \$438 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor         </p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor         </p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The ED recognizes that the Respondents have implemented the following corrective measures at the Station:</p> <ol style="list-style-type: none"> <li>1. Paid UST fees and late charges;</li> <li>2. Renewed their delivery certificate;</li> <li>3. Replaced and repaired damaged or missing vapor guards and nozzles;</li> <li>4. Upgraded the Stage II system to be ORVR compatible and successfully tested the system; and</li> <li>5. Secured an insurance policy sufficient to demonstrate acceptable financial assurance.</li> </ol> <p><b>Ordering Provision(s):</b></p> <p>The Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, begin conducting proper inventory control procedures for all USTs (violation no. 8).</li> <li>2. Within 30 days:             <ol style="list-style-type: none"> <li>a. Install and implement a release detection method for all USTs at the Station and begin recording volume measurement and reconciliation of inventory control records (violation no. 9);</li> <li>b. Conduct the required daily and monthly inspections of the Stage II vapor recovery system (violation no. 1); and</li> <li>c. Ensure that at least one station representative successfully completes the required Stage II vapor recovery system training course and that each current and future employee receives in-house training on the purpose and correct operating procedures of the Stage II vapor recovery equipment (violation no. 2).</li> </ol> </li> <li>3. Within 45 days, submit written certification to demonstrate compliance.</li> </ol>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>condition as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(1)(C), (3)(A), and (3)(E), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4. Failed to pay outstanding UST fees and associated fees for TCEQ Financial Assurance Account No. 0056738U for fiscal years 2006 through 2007 system [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p> <p>5. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, and failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.7(d)(3), 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii)].</p> <p>6. Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>7. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>8. Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>9. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to conduct reconciliation of detailed inventory control records at least once every month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(c)(1)].</p>		



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	31-Mar-2008	Screening	7-Apr-2008	EPA Due	
	PCW	5-Aug-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	To Nguyen and Quang Huynh dba Discount Grocery Store
Reg. Ent. Ref. No.	RN102226750
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35699	No. of Violations	4	
Docket No.	2008-0527-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya	
Multi-Media		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$3,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>14% Enhancement</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$420</b>
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Notes	Enhancement for two NOVs for same or similar violations and two NOVs for dissimilar violations.
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<b>Culpability</b>	<b>No</b>	<b>0% Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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Notes	The Respondents do not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	<b>0% Reduction</b>	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
Notes	The Respondents do not meet the good faith criteria.	

	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$465
Approx. Cost of Compliance	\$2,350

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$3,420</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>11%</b>	<b>Adjustment</b>	<b>\$368</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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<b>Final Penalty Amount</b>	<b>\$3,788</b>
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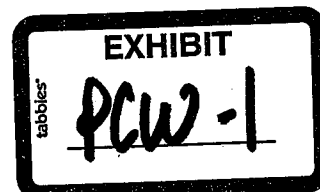
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$3,788</b>
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<b>DEFERRAL</b>	<b>0% Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$3,788</b>
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<b>Screening Date</b>	7-Apr-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Sto			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	35699			<i>PCW Revision February 29, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102226750			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)			
Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 14%

>> Repeat Violator (Subtotal 3)	
No	<b>Adjustment Percentage (Subtotal 3)</b> 0%

>> Compliance History Person Classification (Subtotal 7)	
Average Performer	<b>Adjustment Percentage (Subtotal 7)</b> 0%

>> Compliance History Summary	
<b>Compliance History Notes</b>	Enhancement for two NOVs for same or similar violations and two NOVs for dissimilar violations.
<b>Total Adjustment Percentage (Subtotals 2, 3, &amp; 7)</b> 14%	

<b>Screening Date</b>	7-Apr-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Store			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	35699			<i>PCW Revision February 29, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102226750			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.244(1), 115.244(3) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.			
<b>Base Penalty</b>				\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Release</b>	<b>Harm</b>		
		Major	Moderate	Minor
	Actual			
	Potential		x	
				<b>Percent</b> 10%
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
				<b>Percent</b> 0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>				\$9,000

	\$1,000
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<b>Violation Events</b>				
Number of Violation Events		1	39	Number of violation days
mark only one with an x	daily			<b>Violation Base Penalty</b> \$1,000
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
One quarterly event is recommended based on documentation of the violation during the February 28, 2008 investigation to the April 7, 2008 screening date.				

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$368	<b>Violation Final Penalty Total</b>	\$1,263
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,263	

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$350	28-Jan-2008	28-Feb-2008	1.0	\$18	\$350	\$368
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated amount to conduct daily and monthly inspections of the Stage II system. Date Required is one month prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance

\$350

TOTAL

\$368

<b>Screening Date</b>	7-Apr-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Store			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	35699			<i>PCW Revision February 29, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102226750			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment.			
			<b>Base Penalty</b>	\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Release</b>	<b>Harm</b>		
		Major      Moderate      Minor		
	Actual			
	Potential		x	
			<b>Percent</b>	10%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
			<b>Percent</b>	0%
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation			
			<b>Adjustment</b>	\$9,000
				\$1,000
<b>Violation Events</b>				
Number of Violation Events		1	39	Number of violation days
mark only one with an x	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
			<b>Violation Base Penalty</b>	\$1,000
One quarterly event is recommended based on documentation of the violation during the February 28, 2008 investigation to the April 7, 2008 screening date.				
<b>Economic Benefit (EB) for this violation      Statutory Limit Test</b>				
<b>Estimated EB Amount</b>		\$19	<b>Violation Final Penalty Total</b>	\$1,263
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,263



**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	28-Feb-2008	28-Nov-2008	0.8	\$19	n/a	\$19
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training Stage II Station representative. Date Required is the investigation date. Final Date is the estimated compliance date.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$19

<b>Screening Date</b>	7-Apr-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>															
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Store			Policy Revision 2 (September 2002)															
<b>Case ID No.</b>	35699			PCW Revision February 29, 2008															
<b>Reg. Ent. Reference No.</b>	RN102226750																		
<b>Media [Statute]</b>	Petroleum Storage Tank																		
<b>Enf. Coordinator</b>	Rajesh Acharya																		
<b>Violation Number</b>	3																		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(1)(C), 115.242(3)(A), 115.242(3)(E) and Tex. Health & Safety Code § 382.085(b)																		
<b>Violation Description</b>	Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, vapor guards were missing at the following nozzles : No. 1 Regular Unleaded, No. 3 Plus and Super Unleaded and No. 4 Plus and Super Unleaded. Also, the vapor guards on nozzle No. 2 Plus and Super Unleaded were torn .																		
		<b>Base Penalty</b>	\$10,000																
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																			
<b>OR</b>	<b>Release</b>	<b>Harm</b>																	
		Major	Moderate	Minor															
	Actual																		
	Potential		x		<b>Percent</b> 10%														
<b>&gt;&gt; Programmatic Matrix</b>																			
	Falsification	Major	Moderate	Minor															
					<b>Percent</b> 0%														
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.																		
		<b>Adjustment</b>	\$9,000																
			\$1,000																
<b>Violation Events</b>																			
	<b>Number of Violation Events</b>	1	39	<b>Number of violation days</b>															
		<table border="1" style="margin: auto"><tr><td>daily</td><td></td></tr><tr><td>monthly</td><td></td></tr><tr><td>quarterly</td><td style="text-align: center;">x</td></tr><tr><td>semiannual</td><td></td></tr><tr><td>annual</td><td></td></tr><tr><td>single event</td><td></td></tr></table>			daily		monthly		quarterly	x	semiannual		annual		single event				
daily																			
monthly																			
quarterly	x																		
semiannual																			
annual																			
single event																			
<i>mark only one with an x</i>				<b>Violation Base Penalty</b>	\$1,000														
	One quarterly event is recommended based on documentation of the violation during the February 28, 2008 investigation to the April 7, 2008 screening date.																		
<b>Economic Benefit (EB) for this violation</b>					<b>Statutory Limit Test</b>														
	<b>Estimated EB Amount</b>	\$79	<b>Violation Final Penalty Total</b>	\$1,263															
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$1,263															

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment	\$1,500	28-Feb-2008	28-Nov-2008	0.8	\$4	\$75	\$79
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to upgrade the Stage II equipment to ORVR compatible system and repair the Stage II system.  
 Date Required is the date of investigation. Final Date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$79

<b>Screening Date</b> 7-Apr-2008		<b>Docket No.</b> 2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b> To Nguyen and Quang Huynh dba Discount Grocery Store		Policy Revision 2 (September 2002)	
<b>Case ID No.</b> 35699		PCW Revision February 29, 2008	
<b>Reg. Ent. Reference No.</b> RN102226750			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Rajesh Acharya			
<b>Violation Number</b>	<input type="text" value="4"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702		
<b>Violation Description</b>	Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0056738U for fiscal years 2006 through 2007.		
		<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text"/>				
<b>Adjustment</b>					<input type="text" value="\$10,000"/>
					<input type="text" value="\$0"/>

<b>Violation Events</b>				
Number of Violation Events <input type="text"/>		Number of violation days <input type="text"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$0"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
No additional administrative penalty is recommended because penalty and interest will be assessed at the next billing.				

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$0"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$0"/>

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	N/A						

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance **TOTAL**

# Compliance History

Customer/Respondent/Owner-Operator:	CN603341488	NGUYEN, TO	Classification: AVERAGE	Rating: 2.14
Regulated Entity:	RN102226750	DISCOUNT GROCERY STORE	Classification: AVERAGE	Site Rating: 2.14
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	35860
Location:	4244 WILBARGER ST, FORT WORTH, TX, 76119			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 09, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 09, 2003 to April 09, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rajesh Acharya Phone: (512) 239-0577

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |   |            |          |
|---|------------|----------|
| 1 | 06/24/2003 | (277401) |
| 2 | 07/06/2004 | (274743) |
| 3 | 10/28/2004 | (337290) |
| 4 | 02/10/2005 | (350367) |
| 5 | 04/27/2005 | (378344) |
| 6 | 11/16/2007 | (596897) |
| 7 | 03/27/2008 | (619143) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/24/2003 (277401)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)

30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to provide acceptable financial assurance.

Date: 10/28/2004 (337290)

Self Report? NO

Classification: Moderate

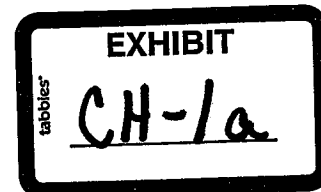
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)

Description: Failure to maintain the Stage II Vapor Recovery System in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system, including Stage I dry breaks that are inoperative or defective.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)



Description: Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). At the time of the investigation, monthly inspections of components were not being performed. These components include: any pressure/vacuum relief valves and Stage I dry breaks.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(2)

Description: Failure to ensure at least one Stage II Facility Representative receives training within three months of the departure of the trained employee. At the time of the investigation, the facility did not have a current Stage II Facility Representative.

Date: 03/18/2005 (372218)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Date: 11/16/2007 (596897)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct monthly inspections

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

Description: Failure to train a Stage II Facility Representative.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)

Description: Failure to install an ORVR compatible system by April 1, 2007.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Nozzles were missing vapor guards.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)

Description: Vapor guards were severely damaged.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# Compliance History

Customer/Respondent/Owner-Operator:	CN603341496	HUYNH, QUANG	Classification: AVERAGE	Rating: 2.14
Regulated Entity:	RN102226750	DISCOUNT GROCERY STORE	Classification: AVERAGE	Site Rating: 2.14
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	35860
Location:	4244 WILBARGER ST, FORT WORTH, TX, 76119			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 09, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 09, 2003 to April 09, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rajesh Acharya Phone: (512) 239-0577

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/24/2003	(277401)
2	07/06/2004	(274743)
3	10/28/2004	(337290)
4	02/10/2005	(350367)
5	04/27/2005	(378344)
6	11/16/2007	(596897)
7	03/27/2008	(619143)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/24/2003 (277401)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to provide acceptable financial assurance.  
Date: 10/28/2004 (337290)

Self Report? NO

Classification: Moderate

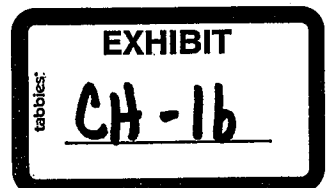
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)

Description: Failure to maintain the Stage II Vapor Recovery System in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system, including Stage I dry breaks that are inoperative or defective.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)





Description: Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). At the time of the investigation, monthly inspections of components were not being performed. These components include: any pressure/vacuum relief valves and Stage I dry breaks.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(2)

Description: Failure to ensure at least one Stage II Facility Representative receives training within three months of the departure of the trained employee. At the time of the investigation, the facility did not have a current Stage II Facility Representative.

Date: 03/18/2005 (372218)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Date: 11/16/2007 (596897)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct monthly inspections

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

Description: Failure to train a Stage II Facility Representative.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)

Description: Failure to install an ORVR compatible system by April 1, 2007.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Nozzles were missing vapor guards.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)

Description: Vapor guards were severely damaged.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	7-Jul-2008	Screening	8-Jul-2008	EPA Due	
	PCW	17-Nov-2008				

## RESPONDENT/FACILITY INFORMATION

Respondent	To Nguyen and Quang Huynh dba Discount Grocery Store		
Reg. Ent. Ref. No.	RN102226750		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	35699	No. of Violations	5
Docket No.	2008-0527-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$8,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 9.0% Enhancement Subtotals 2, 3, & 7 **\$765**

Notes Enhancement for one NOV with same or similar violations and for two NOVs without same or similar violations.

**Culpability** No 0.0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0**

**Economic Benefit** 0.0% Enhancement\* Subtotal 6 **\$0**

Total EB Amounts \$2,857  
Approx. Cost of Compliance \$3,400

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$9,265**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 29.5% Adjustment **\$2,730**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount **\$11,995**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$11,995**

**DEFERRAL** 0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$11,995**

EXHIBIT

tabbles

PCW-2

<b>Screening Date</b>	8-Jul-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Stor			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	35699			PCW Revision June 12, 2008
<b>Reg. Ent. Reference No.</b>	RN102226750			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Wallace Myers			

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 9%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same or similar violations and for two NOVs without same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 9%

<b>Screening Date</b> 8-Jul-2008	<b>Docket No.</b> 2008-0527-PST-E	<b>PCW</b>		
<b>Respondent</b> To Nguyen and Quang Huynh dba Discount Grocery Store	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 35699	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102226750				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Wallace Myers				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)			
<b>Violation Description</b>	Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operator and upgrade information for the UST system. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2007.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Release</b>	<b>Harm</b>		
		Major    Moderate    Minor		
	Actual Potential	<table border="1" style="width: 100px; height: 20px;"> </table> <table border="1" style="width: 100px; height: 20px;"> </table>	<table border="1" style="width: 100px; height: 20px;"> </table> <table border="1" style="width: 100px; height: 20px;"> </table>	
		<b>Percent</b>	0%	
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<table border="1" style="width: 100px; height: 20px;"> </table>	<table border="1" style="width: 100px; height: 20px;"> x</table>	<table border="1" style="width: 100px; height: 20px;"> </table>	<table border="1" style="width: 100px; height: 20px;"> </table>
		<b>Percent</b>	10%	
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>			\$9,000	
			\$1,000	
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<b>Number of violation days</b>		
mark only one with an x		daily monthly quarterly semiannual annual single event	<table border="1" style="width: 100px; height: 60px;">        x</table>	
		<b>Violation Base Penalty</b>		
		\$1,000		
One single event is recommended based on documentation of the violation during the May 20, 2008 investigation.				
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b>		
		\$0		
		Before NOV    NOV to EDPRP/Settlement Offer		
Extraordinary Ordinary N/A		<table border="1" style="width: 100px; height: 30px;"> </table> <table border="1" style="width: 100px; height: 30px;"> </table> <table border="1" style="width: 100px; height: 30px;"> x</table>		
Notes		(mark with x)		
The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>			\$1,000	
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
<b>Estimated EB Amount</b>		<b>Violation Final Penalty Total</b>		
\$12		\$1,411		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				
\$1,411				

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Aug-2007	8-Apr-2009	1.69	\$1	\$11	\$12
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration and obtain a current TCEQ delivery certificate. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the estimated date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$12

<b>Screening Date</b>	8-Jul-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Store			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	35699	PCW Revision June 12, 2008		
<b>Reg. Ent. Reference No.</b>	RN102226750			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Wallace Myers			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 37.815(a) and (b)			
<b>Violation Description</b>	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.			
<b>Base Penalty</b>				\$10,000

**>> Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
<b>OR</b>	<b>Release</b>				
	<b>Actual</b>				
	<b>Potential</b>				
					<b>Percent</b> 0%

**>> Programmatic Matrix**

		Falsification		Major	Moderate	Minor	
				x			
					<b>Percent</b> 10%		

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events	2	365	Number of violation days
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mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,000

Two single events are recommended for the two USTs at the Facility.

**Good Faith Efforts to Comply**

	0.0%	<b>Reduction</b>
		Before NOV    NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation	

**Violation Subtotal** \$2,000

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$2,730
	<b>Violation Final Penalty Total</b> \$2,822
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$2,822	

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	20-May-2007	11-Jul-2008	2.00	\$130	\$2,600	\$2,730
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two petroleum USTs (\$650 per tank). The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance

\$1,300

TOTAL

\$2,730

<b>Screening Date</b> 8-Jul-2008	<b>Docket No.</b> 2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b> To Nguyen and Quang Huynh dba Discount Grocery Store	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35699	<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN102226750		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Wallace Myers		
<b>Violation Number</b> 3		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)	
<b>Violation Description</b>	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate.	
<b>Base Penalty</b>		\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual				
	Potential			x	
		<b>Percent</b>			5%

<b>&gt;&gt; Programmatic Matrix</b>					
<b>Matrix Notes</b>		<b>Falsification</b>			
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>		
		<b>Percent</b>			0%
Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					
<b>Adjustment</b>					\$9,500

<b>Violation Events</b>		<b>Adjustment</b>		\$500
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<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	1	
<small>mark only one with an x</small>	daily			<b>Violation Base Penalty</b>
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
One single event is recommended for accepting one delivery of fuel.				

<b>Good Faith Efforts to Comply</b>	<b>0.0% Reduction</b>	
	<small>Before NOV    NOV to EDRP/Settlement Offer</small>	
Extraordinary		
Ordinary		
N/A	x	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b>		\$500

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	<b>Violation Final Penalty Total</b>
\$0	\$706
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$706	



**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

<b>Screening Date</b>	8-Jul-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Store			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	35699			PCW Revision June 12, 2008
<b>Reg. Ent. Reference No.</b>	RN102226750			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Wallace Myers			
<b>Violation Number</b>	4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(c)			
<b>Violation Description</b>	Failed to conduct effective manual or automatic inventory control procedures for the UST system.			
<b>Base Penalty</b>				\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>						
<b>OR</b>		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential	x			Percent	25%
<b>&gt;&gt; Programmatic Matrix</b>						
	Falsification	Major	Moderate	Minor	Percent	0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.					
<b>Adjustment</b>						\$7,500
						<b>\$2,500</b>

<b>Violation Events</b>		
Number of Violation Events	1	Number of violation days
	49	
mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	
One quarterly event is recommended based on documentation of the violation during the May 20, 2008 investigation to the July 8, 2008 screening date.		
<b>Violation Base Penalty</b>		\$2,500

<b>Good Faith Efforts to Comply</b>	0.0%	<b>Reduction</b>	\$0
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			\$2,500

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$22
<b>Violation Final Penalty Total</b>	\$3,528
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$3,528	

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	20-May-2008	8-Apr-2009	0.88	\$22	n/a	\$22
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the estimated date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$22

<b>Screening Date</b>	8-Jul-2008	<b>Docket No.</b>	2008-0527-PST-E	<b>PCW</b>																	
<b>Respondent</b>	To Nguyen and Quang Huynh dba Discount Grocery Store			<i>Policy Revision 2 (September 2002)</i>																	
<b>Case ID No.</b>	35699			<i>PCW Revision June 12, 2008</i>																	
<b>Reg. Ent. Reference No.</b>	RN102226750																				
<b>Media [Statute]</b>	Petroleum Storage Tank																				
<b>Enf. Coordinator</b>	Wallace Myers																				
<b>Violation Number</b>	5																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A), (d)(1)(B)(ii), (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)																				
<b>Violation Description</b>	<p>Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode once each month. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the the amount still remaining in the tank each operating day.</p>																				
<b>Base Penalty</b>				\$10,000																	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual				Potential	x			Percent <input type="text" value="25%"/>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual																					
Potential	x																				
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>					Falsification	Major	Moderate	Minor						Percent <input type="text" value="0%"/>						
	Falsification	Major	Moderate	Minor																	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.																				
<b>Adjustment</b>				\$7,500																	
				\$2,500																	
<b>Violation Events</b>																					
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="49"/>																			
mark only one with an x	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>																		
	monthly	<input type="text"/>																			
	quarterly	x																			
	semiannual	<input type="text"/>																			
	annual	<input type="text"/>																			
	single event	<input type="text"/>																			
One quarterly event is recommended based on documentation of the violation during the May 20, 2008 investigation to the July 8, 2008 screening date.																					
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0																	
		Before NOV    NOV to EDPRP/Settlement Offer																			
Extraordinary		<input type="text"/>																			
Ordinary		<input type="text"/>																			
N/A		x	(mark with x)																		
<b>Notes</b>		The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b>				\$2,500																	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																			
Estimated EB Amount <input type="text" value="\$93"/>		Violation Final Penalty Total		\$3,528																	
This violation Final Assessed Penalty (adjusted for limits)				\$3,528																	

**Economic Benefit Worksheet**

**Respondent** To Nguyen and Quang Huynh dba Discount Grocery Store  
**Case ID No.** 35699  
**Reg. Ent. Reference No.** RN102226750  
**Media** Petroleum Storage Tank  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	20-May-2008	8-Apr-2009	0.88	\$4	\$88	\$93
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide a method of release detection for the UST system including volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the estimated date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$93

# Compliance History

Customer/Respondent/Owner-Operator:	CN603341488	NGUYEN, TO	Classification: AVERAGE	Rating: 2.14
Regulated Entity:	RN102226750	DISCOUNT GROCERY STORE	Classification: AVERAGE	Site Rating: 2.14
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	35860	
Location:	4244 WILBARGER ST, FORT WORTH, TX, 76119		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	July 24, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 24, 2003 to July 24, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Wallace Myers Phone: 512-239-6580

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/06/2004 (274743)
- 2 10/28/2004 (337290)
- 3 02/10/2005 (350367)
- 4 04/27/2005 (378344)
- 5 11/16/2007 (596897)
- 6 03/27/2008 (619143)
- 7 06/30/2008 (680152)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/28/2004 (337290)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)

Description: Failure to maintain the Stage II Vapor Recovery System in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system, including Stage I dry breaks that are inoperative or defective.

Self Report? NO

Classification: Moderate

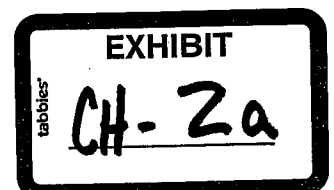
Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). At the time of the investigation, monthly inspections of components were not being performed. These components include: any pressure/vacuum relief valves and Stage I dry breaks.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(2)



Description: Failure to ensure at least one Stage II Facility Representative receives training within three months of the departure of the trained employee. At the time of the investigation, the facility did not have a current Stage II Facility Representative.

Date 03/18/2005 (372218)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Date 11/16/2007 (596897)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct monthly inspections

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

Description: Failure to train a Stage II Facility Representative.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)

Description: Failure to install an ORVR compatible system by April 1, 2007.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Nozzles were missing vapor guards.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)

Description: Vapor guards were severely damaged.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# Compliance History

Customer/Respondent/Owner-Operator: CN60334149 HUYNH, QUANG Classification: AVERAGE Rating: 2.14  
Regulated Entity: RN10222675 DISCOUNT GROCERY STORE Classification: AVERAGE Site Rating: 2.14  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 35860  
REGISTRATION  
Location: 4244 WILBARGER ST, FORT WORTH, TX, 76119 Rating Date: 9/1/2007 Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared July 24, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 24, 2003 to July 24, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Wallace Myers Phone: 512-239-6580

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 07/06/2004 (274743)  
2 10/28/2004 (337290)  
3 02/10/2005 (350367)  
4 04/27/2005 (378344)  
5 11/16/2007 (596897)  
6 03/27/2008 (619143)  
7 06/30/2008 (680152)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/28/2004 (337290)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)

Description: Failure to maintain the Stage II Vapor Recovery System in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system, including Stage I dry breaks that are inoperative or defective.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). At the time of the investigation, monthly inspections of components were not being performed. These components include: any pressure/vacuum relief valves and Stage I dry breaks.

EXHIBIT

tabbles  
CH-2b



Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.248(2)  
Description: Failure to ensure at least one Stage II Facility Representative receives training within three months of the departure of the trained employee. At the time of the investigation, the facility did not have a current Stage II Facility Representative.

Date 03/18/2005 (372218)

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)  
Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Date 11/16/2007 (596897)

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)  
Description: Failure to conduct daily inspections.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)  
Description: Failure to conduct monthly inspections

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)  
Description: Failure to train a Stage II Facility Representative.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)  
Description: Failure to install an ORVR compatible system by April 1, 2007.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
Description: Nozzles were missing vapor guards.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)  
Description: Vapor guards were severely damaged.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TO NGUYEN AND QUANG  
HUYNH, AKA QUINN HUYNH,  
DBA DISCOUNT GROCERY  
STORE;  
RN102226750**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0527-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding To Nguyen and Quang Huynh, aka Quinn Huynh, dba Discount Grocery Store ("Nguyen and Huynh") under the authority of TEX. WATER CODE chs. 5, 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Nguyen and Huynh appear before the Commission and together stipulate that:

1. Nguyen and Huynh own and operate a convenience store with retail sales of gasoline located at 4244 Wilbarger, Fort Worth, Tarrant County, Texas (the "Station").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Commission and Nguyen and Huynh agree that the Commission has jurisdiction to enter this Agreed Order, and that Nguyen and Huynh are subject to the Commission's jurisdiction.
4. Nguyen and Huynh received notice of the violations alleged in Section II ("Allegations") on or about November 16, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Nguyen and Huynh of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of fifteen thousand seven hundred eighty-three dollars (\$15,783.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nguyen and Huynh paid four hundred fifty-three dollars (\$453.00) of the administrative penalty. The remaining amount of fifteen thousand three hundred thirty dollars (\$15,330.00) of the administrative penalty shall be payable in 35 monthly payments of four hundred thirty-eight dollars (\$438.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Nguyen and Huynh fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Nguyen and Huynh's failure to meet the payment schedule of this Agreed Order constitutes the failure by Nguyen and Huynh to timely and satisfactorily comply with all of the terms of this Agreed Order
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Nguyen and Huynh agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Nguyen and Huynh implemented the following corrective measures at the Station in response to this enforcement action:
  - a. Paid UST fees and late charges;
  - b. Renewed their delivery certificate;
  - c. Replaced and repaired damaged or missing vapor guards and nozzles;
  - d. Upgraded the Stage II system to be ORVR compatible and successfully tested the system; and
  - e. Secured an insurance policy sufficient to demonstrate financial assurance.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Nguyen and Huynh have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an inspection conducted on February 28, 2008, a City of Fort Worth Environmental Management Department investigator documented that Nguyen and Huynh violated the following requirements:
  - a. 30 TEX. ADMIN. CODE §115.244(1), 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to conduct daily and monthly inspections of the Stage II vapor recovery system for the petroleum storage tanks.
  - b. 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system by completing a training course approved by the executive director, and by failing to ensure that current employees are aware of the purposes and correct operating procedures of the Stage II equipment.
  - c. 30 TEX. ADMIN. CODE §115.242(1)(C), 115.242(3)(A), 115.242(3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to ensure that the Stage II vapor recovery system is onboard refueling vapor recovery (ORVR) compatible, by failing to replace missing vapor guards on pump nozzles #1 Regular Unleaded, #3 Plus and Super Unleaded and #4 Plus and Super Unleaded, and by failing to replace damaged vapor guards on pump nozzles #2 Plus and Super Unleaded, thereby failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order.

- d. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702 by failing to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0056738U for fiscal years 2006 through 2007.
2. Nguyen and Huynh received notice of the violations on or about March 27, 2008.
3. During an investigation conducted on May 20, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Nguyen and Huynh violated the following requirements:
  - a. 30 TEX. ADMIN. CODE §§ 334.7(d)(3), 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii), by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, and by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date.
  - b. 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
  - c. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs.
  - d. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual or automatic inventory control procedures for the UST system.
  - e. 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
4. Nguyen and Huynh received notice of the violations on or about July 5, 2008.

### III. DENIALS

Nguyen and Huynh generally deny each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Nguyen and Huynh pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Nguyen and Huynh's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: To Nguyen and Quang Huynh, aka Quinn Huynh, dba Discount Grocery Store, Docket No. 2008-0527-PST-E to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Nguyen and Huynh shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Nguyen and Huynh shall:
    - i. Begin conducting proper inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.
  - b. Within 30 days after the effective date of this Agreed Order, Nguyen and Huynh shall:
    - i. Install and implement a release detection method for all USTs at the Station and begin recording volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50;
    - ii. Conduct the required daily and monthly inspections of the Stage II vapor recovery system in accordance with 30 TEX. ADMIN. CODE § 115.244; and

- iii. Ensure that at least one Station representative successfully completes the required Stage II vapor recovery system training course and that each current and future employee receives in-house training on the purpose and correct operating procedures of the Stage II vapor recovery equipment in accordance with 30 TEX. ADMIN. CODE § 115.248.
- c. Within 45 days after the effective date of this Agreed Order, Nguyen and Huynh shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Nguyen and Huynh shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provision to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Sam Barrett, Waste Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

- 3. The provisions of this Agreed Order shall apply to and be binding upon Nguyen and Huynh. Nguyen and Huynh are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If Nguyen and Huynh fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Nguyen and Huynh's failure to comply is not a violation of this Agreed Order. Nguyen and Huynh shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Nguyen and Huynh shall notify the Executive Director within seven days after Nguyen or Huynh become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Nguyen and Huynh shall be made in writing to the Executive Director. Extensions are not effective until Nguyen and Huynh receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Nguyen and Huynh in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Nguyen and Huynh, or three days after the date on which the Commission mails notice of this Agreed Order to Nguyen and Huynh, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



To Nguyen and Quang Huynh, aka Quinn Huynh dba Discount Grocery  
Docket No. 2008-0527-PST-E  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Robert M. [Signature] For Stephanie Bergman Rodeur  
For the Executive Director

September 3, 2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Nguyen and Huynh's compliance history;
- Greater scrutiny of any permit applications submitted by Nguyen and Huynh;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Nguyen and Huynh;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Nguyen and Huynh; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
Signature

6-21-09  
Date

Quang Huynh  
Name (Printed or typed)  
Authorized representative of  
To Nguyen and Quang Huynh, aka Quinn Huynh, dba Discount Grocery Store

Owner  
Title

To Nguyen and Quang Huynh, aka Quinn Huynh dba Discount Grocery  
Docket No. 2008-0527-PST-E  
Page 9

To Nguyen

Signature

7/27/09

Date

To Nguyen

Name (Printed or typed)

Owner

Title

Authorized representative of

To Nguyen and Quang Huynh, aka Quinn Huynh, dba Discount Grocery Store